

MENTAL HEALTH ELECTRONIC RECORDS
EXCERPTS FROM THE CALIFORNIA STATUTES

SUBJECT

CIVIL CODE

Division 1 PERSONS
Part 2.6 CONFIDENTIALITY OF MEDICAL INFORMATION
Chapter 1 DEFINITIONS

56.05. Definitions

For purposes of this part: ...

Definition of
medical
information.

(f) "Medical information" means any individually identifiable information, in **electronic** or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental or physical condition, or treatment. "Individually identifiable" means that the medical information includes or contains any element of personal identifying information sufficient to allow identification of the individual, such as the patient's name, address, **electronic** mail address, telephone number, or social security number, or other information that, alone or in combination with other publicly available information, reveals the individual's identity.

Division 3 OBLIGATIONS
Part 4 OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS
Title 1.8 PERSONAL DATA
Chapter 1 INFORMATION PRACTICES ACT OF 1977
Article 2 DEFINITIONS

1798.3. Definitions

Definition of
disclose.

As used in this chapter:

(c) The term "disclose" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by **electronic** or any other means to any person or entity.

Article 5 AGENCY REQUIREMENTS

1798.16. Personal information; maintaining sources of information

Retaining the
source of
personal
information.

(a) Whenever an agency collects personal information, the agency shall maintain the source or sources of the information, unless the source is the data subject or he or she has received a copy of the source document, including, but not limited to, the name of any source who is an individual acting in his or her own private or individual capacity. If the source is an agency, governmental entity or other organization, such as a corporation or association, this requirement can be met by maintaining the name of the agency, governmental entity, or organization, as long as the smallest reasonably identifiable unit of that agency, governmental entity, or organization is named.

(b) On or after July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99, whenever an agency **electronically** collects personal information, as defined by Section 11015.5 of the Government Code, the agency shall retain the source or sources or any intermediate form of the information, if either are created or possessed by the agency, unless the source is the data subject that has requested that the information be discarded or the data subject has received a copy of the source document.

(c) The agency shall maintain the source or sources of the information in a readily accessible form so as to be able to provide it to the data subject when they inspect any record pursuant to Section 1798.34. This section shall not apply if the source or sources are exempt from disclosure under the provisions of this chapter.

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA
 DIVISION 3. EXECUTIVE DEPARTMENT
 PART 1. STATE DEPARTMENTS AND AGENCIES
 CHAPTER 1. STATE AGENCIES
 Article 1. General

11015.5. Electronically collected personal information; user notices; distribution

(a) On or after July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99, every state agency, including the California State University, that utilizes any method, device, identifier, or other data base application on the Internet to **electronically** collect personal information, as defined in subdivision (d), regarding any user shall prominently display the following at least one anticipated initial point of communication with a potential user, to be determined by each agency, and in instances when the specified information would be collected:

- (1) Notice to the user of the usage or existence of the information gathering method, device, identifier, or other data base application.
- (2) Notice to the user of the type of personal information that is being collected and the purpose for which the collected information will be used.
- (3) Notice to the user of the length of time that the information gathering device, identifier, or other data base application will exist in the user's hard drive, if applicable.
- (4) Notice to the user that he or she has the option of having his or her personal information discarded without reuse or distribution, provided that the appropriate agency official or employee is contacted after notice is given to the user.
- (5) Notice to the user that any information acquired by the state agency, including the California State University, is subject to the limitations set forth in the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).
- (6) Notice to the user that state agencies shall not distribute or sell any **electronically** collected personal information, as defined in subdivision (d), about users to any third party without the permission of the user.
- (7) Notice to the user that **electronically** collected personal information, as defined in subdivision (d), is exempt from requests made pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).
- (8) The title, business address, telephone number, and **electronic** mail address, if applicable, of the agency official who is responsible for records requests, as specified by subdivision (b) of Section 1798.17 of the Civil Code, or the agency employee designated pursuant to Section 1798.22 of that code, as determined by the agency, who is responsible for ensuring that the agency complies with requests made pursuant to this section.
- (b) A state agency shall not distribute or sell any **electronically** collected personal information about users to any third party without prior written permission from the user, except as required to investigate possible violations of Section 502 of the Penal Code or as authorized under the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code). Nothing in this subdivision shall be construed to prohibit a state agency from distributing **electronically** collected personal information to another state agency or to a public law enforcement organization in any case where the security of a network operated by a state agency and exposed directly to the Internet has been, or is suspected of having been, breached.
- (c) A state agency shall discard without reuse or distribution any **electronically** collected personal information, as defined in subdivision (d), upon request by the user.
- (d) For purposes of this section:
 - (1) "**Electronically** collected personal information" means any information that is maintained by an agency that identifies or describes an individual user, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, medical or employment history, password, **electronic** mail address, and information that reveals any network location or identity, but excludes any information manually submitted to a state agency by a user, whether **electronically** or in written form, and information on or relating to individuals who are users serving in a business capacity, including, but not limited to, business owners, officers, or principals of that business.
 - (2) "User" means an individual who communicates with a state agency or with an agency employee or official **electronically**.
 - (e) Nothing in this section shall be construed to permit an agency to act in a manner inconsistent with the standards and limitations adopted pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) or the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

DIVISION 106 PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT)
PART 1 GENERAL ADMINISTRATION
CHAPTER 1 PATIENT ACCESS TO HEALTH RECORDS

Test results recording and reporting to patient	<div><div>123148</div><div>Test results; recording and reporting to patient; Internet or other electronic posting; plain language</div><div>(a) Notwithstanding any other provision of law, a health care professional at whose request a test is performed shall provide or arrange for the provision of the results of a clinical laboratory test to the patient who is the subject of the test if so requested by the patient, in oral or written form. The results shall be conveyed in plain language and in oral or written form, except the results may be conveyed in electronic form if requested by the patient and if deemed most appropriate by the health care professional who requested the test.</div><div>(b)(1) Consent of the patient to receive his or her laboratory results by Internet posting or * * * other electronic means shall be obtained in a manner consistent with the requirements of Section 56.10 or 56.11 of the Civil Code. * * * In the event that a health care professional arranges for the provision of test results by Internet posting or other electronic manner, the results shall be delivered to a patient in a reasonable time period, but only after the results have been reviewed by the health care professional. Access to clinical laboratory test results shall be restricted by the use of a secure personal identification number when the results are delivered to a patient by Internet posting or other electronic manner.</div></div>
Safety and integrity of patient records	<div><div>123149</div><div>Electronic recordkeeping systems; additional requirements</div><div>(a) Providers of health services, licensed pursuant to Sections 1205, 1253, 1575, and 1726, that utilize electronic recordkeeping systems only, shall comply with the additional requirements of this section. These additional requirements do not apply to patient records if hard copy versions of the patient records are retained.</div><div>(b) Any use of electronic recordkeeping to store patient records shall ensure the safety and integrity of those records at least to the extent of hard copy records. All providers set forth in subdivision (a) shall ensure the safety and integrity of all electronic media used to store patient records by employing an offsite backup storage system, an image mechanism that is able to copy signature documents, and a mechanism to ensure that once a record is input, it is unalterable.</div><div>(c) Original hard copies of patient records may be destroyed once the record has been electronically stored.</div><div>(d) The printout of the computerized version shall be considered the original as defined in Section 255 of the Evidence Code for purposes of providing copies to patients, the Division of Licensing and Certification, and for introduction into evidence in accordance with Sections 1550 and 1551 of the Evidence Code, in administrative or court proceedings.</div><div>(e) Access to electronically stored patient records shall be made available to the Division of Licensing and Certification staff promptly, upon request.</div><div>(f) This section does not exempt licensed clinics, health facilities, adult day health care centers, and home health agencies from the requirement of maintaining original copies of patient records that cannot be electronically stored.</div><div>(g) Any health care provider subject to this section, choosing to utilize an electronic recordkeeping system, shall develop and implement policies and procedures to include safeguards for confidentiality and unauthorized access to electronically stored patient health records, authentication by electronic signature keys, and systems maintenance.</div><div>(h) Nothing contained in this chapter shall affect the existing regulatory requirements for the access, use, disclosure, confidentiality, retention of record contents, and maintenance of health information in patient records by health care providers.</div><div>(i) This chapter does not prohibit any provider of health care services from maintaining or retaining patient records electronically.</div></div>
Telemedicine information is part of patient's medical record.	<div><div>123149.5.</div><div>Information transmitted during delivery of health care via telemedicine; incorporation into patient's medical record</div><div>(a) It is the intent of the Legislature that all medical information transmitted during the delivery of health care via telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, become part of the patient's medical record maintained by the licensed health care provider.</div><div>(b) This section shall not be construed to limit or waive any of the requirements of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.</div></div>

Part 1 OF CRIMES AND PUNISHMENTS
Title 9 OF CRIMES AGAINST THE PERSON INVOLVING SEXUAL ASSAULT,
AND CRIMES AGAINST PUBLIC DECENCY AND GOOD MORALS
Chapter 5 BIGAMY, INCEST, AND THE CRIME AGAINST NATURE

Records of
persons
requesting
records of sex
offenders.

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Registration of sex offenders

(o) Agencies disseminating information to the public pursuant to Section 290.4 shall maintain records of those persons requesting to view the CD-ROM or other **electronic** media for a minimum of five years. Agencies disseminating information to the public pursuant to subdivision (n) shall maintain records of the means and dates of dissemination for a minimum of five years.